



LEGAL REGULATION WORKSHOP

COMPARATIVE SURVEY:

LEGAL REGULATION IN ERRA MEMBER COUNTRIES

March 2004

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<http://www.erranet.org>
Secretariat@erranet.org

INTRODUCTION

Background & Purpose

The Energy Regulators Regional Association (ERRA) organized a Legal Regulatory Meeting on February 4-5, 2004 in Budapest. The meeting was co-hosted by the Hungarian Energy Office (HEO), the Energy Regulators Regional Association (ERRA) and the U.S. National Association of Regulatory Utility Commissioners (NARUC), with funding provided by the U.S. Agency for International Development (USAID).

The purpose of the meeting was to bring together staff persons of ERRA member organizations directly involved in legal regulation, licensing and the dispute resolution process in order to compare and review various legal regulatory practices of ERRA members.

Survey Framework

Prior to the meeting, the ERRA Secretariat sent out a survey to each participant in order to assess the existing legal backgrounds and regulatory practices of ERRA members. This paper includes the original questions and responses that the ERRA members provided. The questions focused on several major areas, including: (1) the decision making process of regulators, (2) the appeal process, (3) transparency and openness of the regulator, and (4) examples for court procedures. (Individual regulator presentations are available at www.erranet.org.)

Conclusions

In her welcoming comments, Commissioner Lubov Goncharova (Ukrainian National Electricity Regulatory Commission), the workshop leader, stressed the importance of the meeting and the crucial role that lawyers play in regulation. This meeting was the first time that ERRA lawyers had the opportunity to meet and to discuss issues of common interest in the field of legal regulation.

At the end of the meeting, the participants identified the following issues for future discussions: (1) Open government and open public meetings, public records, ethical obligations of the regulator, prohibitions against ex parte communications, appearance of fairness; (2) Administrative and judicial reviews; (3) Remedies for non-compliance; (4) Public advocacy; and (5) Adjudicative orders. In addition to the above, members expressed an interest in developing a Comprehensive Glossary to facilitate a common understanding of legal terms applicable to energy regulation.

Participants

Representatives from 21 ERRA member organizations participated, in addition there were 2 US and 1 Austrian regulators.

- Albanian Electricity Regulatory Authority (ERE)
Mr. Rezar Vaqari, Legal and Public Relations Specialist
- Natural Monopoly Regulatory Commission of the Republic of Armenia (NMRC)
Mr. Hamik Amiraghyan, Head of Legal/License Division
- Bulgaria: State Energy Regulatory Commission (SERC)
Ms. Paraskeva Kisseva, Director of Legal Division
- Croatian Energy Regulatory Council (CERC)

- Mrs. Krunoslava Grgic Boljesic, Legal Secretary
- Georgian National Energy Regulatory Commission (GNERC)
Mr. Alexander Khetaguri, Director of Methodology and Dataware Department
- Hungarian Energy Office (HEO)
Mr. Laszlo Huber, Deputy Head of Legal and Administration Department
Ms. Erika Cserhati, Lawyer
- Kazakhstan: Agency for Regulation of Natural Monopolies, Protection of Competition (ANMR)
Mrs. Galiya Joldybayva, Director, Legal Department
- State Energy Agency under the Government of the Kyrgyz Rep. Republic (SEA)
Mrs. Olga Serova, Head of Legal Department
- Latvia: Public Utilities Commission (PUC)
Ms. Ieva Feldmane, Director of Legal Department
- National Control Commission for Prices and Energy in Lithuania (NCC)
Ms. Vilma Adomaviciute, Lawyer
- Moldova: National Energy Regulatory Agency (ANRE)
Mr. Evlampie Donos, Head of Legal and Consumer Protection Department
- Poland: Electricity Regulatory Authority (ERA)
Ms. Malgorzata Kozak, Senior Expert at Department of European Integration and Comparative Studies
Ms. Malgorzata Szczepanska, Senior Specialis, Senior Expert, Legal Boureau
- Romanian Electricity and Heat Regulatory Authority (ANRE)
Ms. Carmen Oprea, Head of Legal Office
- Romanian National Natural Gas Regulatory Authority (ANRGN)
Mr. Mihai Goage, Legal Advisor
- Federal Energy Commission of the Russian Federation (FEC)
Ms. Elvira Koroleva, Member of the Licensing Competition Committee
- Slovakia: Regulatory Office for Network Industries (URSO)
Mr. Richard Kralovic, Chief Advisor
- Turkey: Energy Market Regulatory Authority (EMRA)
Mrs. Nilüfer Şentürk, Lead Attorney
- National Electricity Regulatory Commission of Ukraine (NERC)
Commissioner Lyubov Grigoryevna Goncharova
Mrs. Olena Gavriluk, Head of Legal Department
- National Association of Regulatory Utility Commissioners (USA)
Judge Scott R. Storms, Chief Administrative Law Judge, Indiana Utility Regulatory Commission
Ms. Sally Johnston, Senior Assistant Attorney General, Utilities and Transportation Division, Washington Utilities and Transportation Commission
- Council of European Energy Regulators
Mr. Wolfgang Urbantschitsch, Head of Legal Department, E-Control Austria

RESULTS OF SURVEY

1. What laws or specific regulations govern the decision-making process of the Regulator?

Statutes:

Armenia, Bulgaria, Croatia, Georgia, Hungary, Kyrgyz Rep., Latvia, Lithuania, Moldova, Poland, Romania Gas, Russia, Slovakia, Turkey, Ukraine

Administrative Rules and Regulations:

Albania, Bulgaria, Croatia, Hungary, Kyrgyz Rep. Moldova, Rom. El., Georgia

By-laws:

Albania, Bulgaria (pending) Georgia, Kyrgyz Rep., Moldova, Romania Electricity, Russia, Georgia

Departmental regulations (e.g. specific documents or departmental/agency policies and procedures):

Bulgaria (pending) Hungary, Kyrgyz Rep., Latvia, Moldova, Romania Electricity

Orders, instructions: Kazakhstan

2. Can the Regulators' decisions be appealed?

2.a. Appeal: Whom can appeal?

Every interested party:

Albania, Bulgaria, Croatia, Georgia, Hungary, Latvia, Lithuania, Moldova, Romania, Russia, Slovakia, Ukraine

2.b. Appeal: What kinds of decisions can be appealed?

All kinds of decisions:

Albania, Bulgaria, Georgia, Kazakhstan, Kyrgyz Rep., Latvia, Lithuania, Moldova, Poland, Romania, Slovakia (as of July 1, 2004), Turkey

Judgments on the merits:

Hungary

State regulated tariffs; regulator's failure to act; disputes between regional energy commissions and energy supply companies:

Russia

Licenses, business conditions, approvals for construction, access to network:

Slovakia

2.c. Appeal: Among the decisions, are there those that cannot be appealed according to legislation?

Size of tariffs cannot be appealed:

Armenia

It is not defined how to appeal against decisions on tariffs of transport of oil:

Croatia

Judgments not on the merits cannot be reviewed:

Hungary

The price regulation ordinances cannot be appealed:

Slovakia (until July 1, 2004)

Disputes related to setting tariffs:

Ukraine

2.d. Appeal: What is the basis of appeals?

Lack of competence, non-compliance with forms, abuse of administrative procedural rules, contradiction to the provisions of the law, non-conformity with the objectives of the law:

Bulgaria

Non-observation of procedures, illegality of decisions, insufficient evidence:

Georgia

If legitimate interests were violated referring to breach of law:

Hungary

Incorrect application of the law, insufficient regulation, failure to follow procedures

Latvia

Failure to follow laws and procedures:

Lithuania, Poland

Legal interest violated by the decision, violation or incorrect application of norms of law, non-compliance with the legal procedures for issuing normative acts:

Romania

Insufficient investigation of circumstances, insufficient evidence for circumstances, contradiction between opinions stated in the decision and circumstances, violation or incorrect application of norms or law:

Russia

Incorrect application of norms:

Slovakia

Case was considered with the wrong composition of chamber; Case was considered in the absence of any of the parties; Decision was not signed by any of the judges, Decision was made by the court with violations of the rules of exclusive jurisdiction or venue rule;

Violation or incorrect application of norms of procedural law:

Ukraine

2.e. Appeal: Where is a case appealed (e.g., courts, forum)?

Most countries:

Administrative Court

Penal ordinances are appealed before the District Court:

Bulgaria

Constitutional Court, First instance: Administrative Appeal Court, Second instance: High Cassation Court:

Georgia

Metropolitan Court:

Hungary

Government or Court:

Kyrgyz Rep.

Constitutional Court only for Tariffs:

Latvia

Court of Arbitration:

Russia

Council of State – appeal against the decisions of the Board, other decisions – appeal to the administrative court:

Turkey

First instance: Administrative Appeal Court; second instance: High Court of Justice and Cassation

Moldova, Romania

Antimonopoly Court (civil court), then Higher Court:

Poland

Economic (civil) courts:

Ukraine

2.f. Appeal: What is the formal process and what legal documents regulate it?

Bulgaria: Complaint filed within 14 days after receipt by the party. SERC forwards the file to the Supreme Court. Powers of the court: repeal the appealed act, invalidate this part of the act, modify the act, declare the act null and void, turn down the complaint.

Poland: Appeal must be sent via the regulator who has the possibility to change the appealed decision.

3. What decisions were appealed against most frequently in the past 1-2 years?

None:

Albania, Armenia:

Tariff decisions:

Bulgaria (3), Georgia, Kyrgyz Rep., Latvia (7), Lithuania (5), Moldova (3), Romania/gas(4), Romania/electricity (7), Russia (20).

Granting/rejecting authorizations:

Romania/gas

Pre-contractual dispute resolution:

Romania/electricity, Latvia, Moldova

License:

Bulgaria (13), Georgia, Hungary, Moldova (3), Slovakia, Turkey (license regulation), Ukraine

Provisions of published acts, actions on suppliers

Moldova (3)

Approval of model contracts:

Kyrgyz Rep.

Total or partial invalidation of President's decisions (65), tariffs (7), pre-contractual disputes (50) Commercial regulations (8):

Romania/electricity:

Imposing a fine, tariff refusals, supply contracts (total number of appeals in 2003: 76):

Poland

Disputes between regional energy commissions & energy supply companies:

Russia

Board decisions:

Moldova, Turkey

4. Classification of decisions made by the Regulator:

Croatia:

License: in case of negative administrative act - preliminary;
in case of positive administrative act – final;
Transmission and distribution tariffs – final;

Eligible customer – preliminary;
Construction of production facilities – preliminary;
Access to the network (gas and electricity) – final;
Construction of a direct line – final.

Georgia, Hungary:

Preliminary decisions:

- Approval of disposal over assets
- Approval of transfer of shares
- Approval of merger, transformation, separation

Final decisions:

- Licenses, amendment of licenses, penalties
- Approval decision of Business Conduct Rules
- Approval of Grid and Commercial Codes
- Approval of level of supply
- Quality requirements

Kyrgyz Rep.:

Orders = decisions enforcing the decisions of the legislature, president or government;

Decrees = decisions made within its authorities; instructions.

Latvia:

Preliminary decisions:

- Request for the information to the public service provider
- Annulment of the license (notice decision within 6 months)

Final decisions:

- Tariff methodology for tariff calculation
- Tariff setting
- Licensing
- Pre-court decisions of disputes (out-of-court)

Poland:

Final decisions and Promises.

Romania/Electricity:

The decisions of the Regulator are generally final with the exception of decisions on the eligible customers' accreditation. In this case, the list of eligible consumers is announced at ANRE headquarter and within 10 working days the decision may be appealed. The final list of eligible consumers is approved through a final decision issued by ANRE's President

Slovakia:

Preliminary: licenses, business conditions;

Final: price, tax decisions.

Bulgaria, Georgia, Lithuania, Moldova, Turkey:

Only final decisions.

Kazakhstan:

There are preliminary and final decisions.

Ukraine:

NERC decisions related to licenses (issuance, modification, suspension, violation, sanctions);
Decisions regarding protection of consumer rights are DECREES.

5. How is the transparency and openness of the Regulator's operations ensured in the course of the decision-making process?**5.a. What statutes or administrative rules regulate and guarantee the transparency and openness of the Regulator's operations?****Code of Administrative Procedures:**

Albania, Poland, Georgia

Rules for Conducting Commission Meetings:

Armenia, Georgia

Law:

Bulgaria, Georgia, Hungary, Kazakhstan, Latvia, Lithuania, Moldova, Poland, Romania, Russia, Slovakia, and Ukraine.

5.b. Examples of interactions of the Regulator with regulated companies, state bodies, institutions and organizations, NGOs, mass media, etc.:**Public hearing sessions:**

Albania, Kyrgyz Rep., Latvia, Moldova:

Public discussions, roundtable meetings:

Bulgaria, Kyrgyz Rep.

Commission meetings are open (exceptions: case pending in court):

Armenia

Correspondence, meetings, press conferences, public hearings website, public hearings:

Georgia

Homepage, telephone, fax, roundtable discussions:

Hungary

Council of 9 members:

Romania/gas

Advisory Council of 9 members, public meetings, website, code of ethics, press conferences:

Romania/electricity

Website, press conferences:

Slovakia

Mass media, FEC Newsletter, internet:

Russia

Website:

Turkey

Public hearings, mass media, newsletter:

Ukraine

5.c. What rules govern communication between Commissioners/Staff and parties such as the utilities and ministries, for example, on tariffs?

Internal procedures, code of ethics, code of conduct:

Albania, Lithuania, Kyrgyz Rep.

Energy Act:

Bulgaria, Poland

Administrative code of Georgia, code of ethics and conduct:

Georgia, Poland

Minister's rules and informal channels:

Hungary

Internal procedures:

Latvia

Laws and other legal acts:

Moldova

Not prescribed procedure yet:

Croatia

Info act:

Slovakia

6. List the main topics for the decisions made by the Regulator, based on the tasks and functions of the Regulator:

Please see Annex 1.

7.a. What is the Regulator's role in approving decisions made by the participants of the Electricity wholesale market?

Bulgaria, Kyrgyz Rep., Latvia, Moldova: The electricity wholesale market is not functioning yet.

Georgia: The Commission cannot impose direct veto; it has a legal right not to approve or not to confirm it.

Hungary: HEO makes final approval decisions.

Kyrgyz Rep.: Although the wholesale market does not function yet, there is legal basis for it. Most disputes are related to the issue of small hydro plants, access to networks of distribution companies or to the national grid.

Lithuania: NCC cannot veto or pre-empt decisions.

Romania: contraventional sanctions, eg. suspend or withdraw licenses and control of the activity of companies through prices/tariffs - ANRE can reject the request to approve the price/tariff if the request is based on not justified costs.

Slovakia: The regulator's decisions are compulsory.

Poland: The regulator is not involved in approving the decisions taken by the market participants.

Ukraine: Decisions of NERC are compulsory.

7.b. What is the conflict resolution practice between the participants of the electricity wholesale market with participation of the Regulator?

Albania: not defined yet

Croatia: there is no such regulatory practice

Georgia: equal distribution of amounts, procedures for receiving –transmitting electricity
Hungary: regulator cooperates with the participants of the electricity market, organizes and conducts consultations
Moldova, Romania: payment terms and penalty values of supply contracts

8.a. What procedures are in place for the filing of original or initial tariffs, including those related to transparency?

Bulgaria: new by-laws are being drafted
Croatia: tariffs are reviewed by a Council, there is no public hearing
Hungary: it is regulated by ministerial decrees
Kazakhstan: tariff calculations are submitted to the regulator 60 days prior to the expected effective date. If tariffs are revised upon the initiative of the regulator, the subject has to present justified calculations within one month
Lithuania: primary documents & expenses need to be presented to NCC
Moldova: procedures developed by ANRE
Poland: tariffs are verified and approved by the regulator
Romania: ANRE's decisions regulate the process
Russia: government approves principles of pricing, FEC approves methodological instructions
Slovakia: price regulation is determined by the regulator
Ukraine: Law on Power Sector

8.b. Are filed tariffs open and available to the public for inspection as public records?

No:

Croatia, Romania Gas

Yes, except for confidential information:

Bulgaria, Georgia, Lithuania, Slovakia, Romania, Ukraine

Yes, they are publicly available:

Moldova, Russia, Turkey (press)

Filed tariffs are declared by decrees:

Hungary

Public service provider publishes info on draft tariffs in the official newspaper within 10 days after they are submitted to the regulator, except for confidential information:

Latvia

8.c. Are filed tariffs first required to be reviewed and accepted by the Regulator before they are effective?

Yes:

Bulgaria, Croatia, Georgia, Kazakhstan, Latvia, Lithuania, Poland, Romania, Russia, Ukraine

No, the regulator's role is to give proposal to the minister:

Hungary

8.D. What are the grounds for revising tariffs?

Armenia, Georgia: both on licensee's and Commission's initiative

Bulgaria: changes of legislation, changes of fuel prices or of other components

Croatia: it is not set yet

Hungary: changes in the price level, unforeseen change in the generators' capacity, gas and heating oil price
Latvia: factors affecting profitability change
Lithuania, Moldova, Romania Electricity: methodology
Georgia, Romania Gas: unexpected changes in inflation rate or in expenses of the company
Russia: violation of the set procedures for calculation
Slovakia: unexpected situations, inflation
Ukraine: calculation period is over, unjustified use of funds, false information about licensed activities

8.e. What are the terms for making decisions on revising tariffs?

Bulgaria: currently 2 months, the term will be longer
Croatia: not set yet
Georgia: Commission must make the decision within 30 days, tariffs might come into effect within 150 days
Hungary: 90 days can be prolonged with other 30 days
Kazakhstan: 45 days
Lithuania: 1-2 months
Moldova: 30 days
Romania: 30-60 days
Russia: 30 calendar days
Slovakia: 30 days, can be prolonged to 60 days

9.a. What are the types of sanctions for violations of license terms?

Armenia: warning, reduction of tariffs, suspension of the license, revocation of the license
Croatia, Georgia, Romania Gas, Slovakia: withdraw license
Hungary: detailed list is available, see Annex 2
Kazakhstan: administrative and criminal sanctions, confiscation of revenue
Kyrgyz Rep.: administrative sanctions
Latvia: revoke the license, administrative sanctions
Poland: impose fines
Ukraine: warning, fine, appointment of temporary administrator, suspension of the license, revocation of the license

9.b. Are investigations of violations made?

Yes:

Bulgaria, Georgia, Hungary, Latvia, Lithuania, Moldova, Romania, Slovakia, Ukraine, and Croatia (through monitoring)

9.c. What is the basis for investigations?

Both information already known by the Regulator and information provided by another party:

Bulgaria, Croatia, Hungary, Lithuania, Slovakia

Documents obtained by the group of inspectors or by other parties

Georgia

Information can come from many different sources:

Poland, Romania

9. d. What amount of information is sufficient to initiate an investigation?

Case-to-case-basis:

Croatia, Georgia, Hungary, Poland, Romania, Slovakia

Any document proving that violation exist

Bulgaria, Lithuania, Moldova

9.e. What are the terms for making decisions?

Bulgaria: within 6 months

Croatia, Romania Electricity: not defined by law, based on discretionary decision

Georgia: within 1-3 months

Hungary: 90 days, can be extended with additional 30 days

Latvia: depends on the penalty – 2-6 months

Lithuania, Slovakia: 1 month

10. How are Commissioners/Regulators and Staff protected from unauthorized outside pressure in the course of making decisions and from unauthorized interference in the decision-making process?

Bulgaria: Energy Law, Code of Ethics

Croatia: there is no legal protection

Georgia: It is guaranteed by legislation

Hungary: exclusion regulations (Act on the State Administration), incompatibility regulations (Act on Civil Servants), special rules (Energy Act)

Latvia: regulator is independent by law

Romania Electricity: institutional level (law), functional level

Kazakhstan, Moldova, Slovakia, Turkey, Ukraine: Law

Poland: Law, Administrative Proceedings Code, Penal Code, internal rules

11. The Regulator's decisions are of the following nature:

Compulsory: Albania, Armenia, Bulgaria, Croatia, Georgia, Hungary, Kazakhstan, Kyrgyz Rep., Latvia, Lithuania, Moldova, Romania Electricity, Romania Gas, Russia, Slovakia, Turkey, Ukraine

Discretionary: Croatia (duration of license), Kazakhstan, Kyrgyz Rep., Poland

Instructive: Georgia, Kazakhstan, Kyrgyz Rep., Lithuania, Turkey, Ukraine

Advisory: Croatia (grid code, tariff structure), Hungary (tariffs) Kazakhstan, Latvia, Romania Electricity, Romania Gas (dispute settlement)

Other: Croatia – approval (market rules, development plans)

12.a. Is the Regulator's forum consistent with and equal to a court of law?

No:

Bulgaria, Poland, Romania Gas (exception: pre-contractual disputes), Hungary, Slovakia, Ukraine

Not completely:

Albania, Kazakhstan

Regulator's procedures are a little bit simpler than court's

Georgia, Lithuania

More yes than no:

Russia

Yes, according to some procedures, when issuing decisions for solving the pre-contractual disputes and or when settling an appeal against a decision issued by the Committee of arbitration on the electricity market:

Romania Electricity:

12.b. Are the Regulator's procedures governed by certain administrative or procedural laws?

Albania, Bulgaria, Romania, Russia, Slovakia: yes

Lithuania: rules are set by the regulator how to investigate complains and another questions

Croatia: CERC does not use court procedures

Hungary: no quasi-judicial status

Georgia, Ukraine: quasi-judicial status

12.c. Is the Regulator's duty to function as both judge and jury?

Albania, Bulgaria, Lithuania, Poland, Romania, Slovakia: yes

Hungary: the regulation does not have quasi-judicial status

Moldova: there are some elements of a judicial body

Russia: legislation does not specify such a duty

ANNEX 1

6. LIST MAIN TOPICS FOR THE DECISIONS MADE BY THE REGULATOR, BASED ON TASKS AND FUNCTIONS OF THE REGULATOR

BULGARIA:

The Regulator:

- issues, amends, suspends, terminates and revokes licenses;
- approves general conditions of contracts for sale of power, heat and gas;
- regulates prices: approves prices of power sold by generators to the public supplier, by the public supplier to the distribution companies and to consumers directly connected to the transmission grid and by distribution companies to consumers connected to the distribution network, including prices for transmission and distribution of power, and for connection to the grids; approves prices of heat and its transmission; approves prices of gas supply, including prices for its transmission and distribution, for the connection to the pipes and for gas storage; sets preferential prices of power generated from renewable sources and by co-generation;
- determines the power and gas market rules for the liberalized part of the market, the technical rules of the grid and the pipelines proposed by the licensees;
- approves the methodology for the setting of balancing power prices as a part of the market rules;
- sets the rules for the access to the power and gas transmission and distribution networks;
- sets the rules for the supply of consumers with power, heat and gas, including the standards for the quality of energy and service;
- makes decisions on the amount and compensation of stranded costs and of costs due to public obligations;
- sets the amounts of allowed technical losses;
- sets the availability and the technical parameters for power generation in accordance with which generators may conclude bilateral contracts with eligible customers, traders and other generators under the market rules;
- gives consent for the transformation of licensees;
- gives permission for deals of the transfer, pawn or mortgage of licensees assets or other deals that may jeopardize security of supply due to the indebtedness of the licensee.

GEORGIA:

- Based on its tasks and functions the Commission has the right to make decisions related to licenses, tariffs and disputes.
- The Commission has jurisdiction over the whole territory of Georgia; its decisions are compulsory for all licensees and consumers in all areas of electricity and natural gas sectors.
- According to the Georgian legislation, all issues that are in the competence of the Commission are regulated solely by the Commission.

HUNGARY:

The Office is a national, public administration body with independent powers and competence, acting under the Government's control and the Minister's supervision.

The Office shall

- issue, (in cases specified in statutory regulations) amend, and withdraw the licenses required for performing activities subject to licensing under this Act,
- approve the Business Conduct Rules elaborated by the licensees, impose fines in the amount specified in a separate statutory regulation,
- approve the Electricity Supply Codes compulsory for all participants of the electricity grid,
- specify the general rules of access to the public power grid for eligible consumers,
- prepare the official prices (tariffs) applicable in electricity supply and the terms of their application,
- decide, at the proposal of the independent system operator, on the classification or re-classification of lines as transmission, distribution or public lines,
- *establish – in the form of a resolution – the minimum quality requirements of performing licensee activities and their expected standard for each individual licensee,*
- revise a public service wholesaler's application for the disbursement of stranded costs, and submit a proposal to the Minister on the amount of stranded cost it considers justified,
- *perform the procedures in relation to the restrictions on the acquisition of interests in licensed undertakings,*
- be entitled to suspend transactions for a period of three days in the organized electricity market, when unfavourable market developments do not ensure safe, transparent trading.

KAZAKHSTAN:

The Agency of the Republic of Kazakhstan for Natural Monopoly Regulation, Competition Protection and Small Business Support has the following functions, rights and duties specified in the Law on Natural Monopolies.

- maintenance of the state registry of subjects of natural monopolies, executes state regulation and supervision over their operations;
- within its competence controls compliance with provisions of this law and other normative acts;
- proposes amendments to the law on natural monopolies;
- develops, approves and implements non-discriminatory tariff (pricing, rate) methodologies in the field of natural monopolies;
- summarizes practice of application of laws in the field of natural monopolies and develops recommendations;

Regulator's rights

- to make decisions on including or excluding subjects of natural monopolies from the State registry;
- make decisions that regulate operations of subjects of natural monopolies;
- within its competence make decisions on elimination of violations of this law and on correction of their implications;
- to issue instructions for subjects of natural monopolies on signing agreements on services provided by subjects of natural monopolies; and on making changes in these contracts;
- to instruct subjects of natural monopolies to unbundled technologically linked businesses that are not natural monopolies;
- to apply to court if provisions of the law are violated;
- to request and get information necessary to carry out its functions from individuals and legal entities, local authorities, and officials, observing legal requirements related to confidentiality;
- to examine cases on administrative offences ex-poste, based on information in mass media, based on other materials, written requests from citizens, legal entities, and subjects of natural monopolies;
- develop model agreements to be concluded by subjects of natural monopolies with consumers and submit such agreements for further approval to the Government of the Republic of Kazakhstan;
- initiate changes in tariffs (prices, fees) for services provided by subjects of natural monopolies;
- control procurements made by subjects of natural monopolies;
- conduct public hearings on changes in tariffs (prices, fees) for services provided by subjects of natural monopolies;
- control subjects' of natural monopolies compliance with the tariff schedule;
- set periods of validity for tariffs (prices, fees) for services provided by subjects of natural monopolies (at least six months);
- exercise other authorities

KYRGYZ REPUBLIC:

- Tariff setting
- Issuance of licenses
- Approval of normative-legal acts (rules, instructions)

LATVIA:

Within its competence regulator passes decisions and issues administrative acts, which are binding to the particular providers and users of public services. The main functions of regulator: • protect interests of users and facilitate development of public service providers, • define methodology for tariff calculation, • set tariffs, • licensing, • preliminary settlement of disputes out-of-court, • monitor the compliance of public services with licence conditions, • draw a protocol on administrative offence made by the public service provider. Implementing its functions, taking decisions or issuing administrative acts the regulator is not subject to the

resolutions of the government or its institutions.

The regulator has to complain with the state policy makers and these decisions are out of competence of regulator.

LITHUANIA:

To set and control energy prices, investigate consumers complains as pre-trial institution.

MOLDOVA:

- Issuance of licenses, change, suspension of licenses;
- Monitoring the accuracy of calculation of regulated tariffs for electricity and natural gas made by the license holder;
- Supervision of commercial activities of the electricity and natural gas market participants;
- Development and approval of the market rules, securing equal rights for all market participants;
- Development and approval of regulations for conducting economic and commercial activities;
- ANRE performs other functions depending on its tasks.

POLAND:

The Energy Law Act specifies the kinds of issues that should be resolved by means of a decision.

1. The President of the ERA, upon the request of gas enterprises, has a right to limit or exempt them from their obligations to provide access to pipelines/network to all entities.
2. Disputes concerning, refusal to provide access to network by energy enterprises or refusal to connect to the network, refusal to conclude electricity, gas or heat sales contract as well as unjustified discontinuity of their supplies are settled by the President of ERA upon the request of one of the parties.
3. The President of the ERA shall appoint for a specified period of time (by means of an administrative decision):
 - 1) operators of the gas and electricity transmission system – for gas pipelines and electricity grids,
 - 2) operators of gas and electricity distribution systems - for gas pipelines and electricity grids, and shall specify area of their operation.
4. The President of ERA grants (or refuses to grant) licenses for:
 - production of energy and fuels,
 - storage of gaseous and liquid fuels,
 - transmission and distribution of fuels and energy,
 - trade in energy and fuels.
5. Energy enterprises possessing licenses shall formulate tariffs for gaseous fuels and electricity and heat, that are subject to approval by the President of the ERA. Energy enterprises possessing licenses submit tariffs on their own initiative or upon request of the President of the ERA.
6. The President of the ERA imposes a fine on anyone who:
 - does not obey duties of the cooperation with the units authorized to dispatch electric energy or gaseous fuels,

- does not obey the duties of purchase of electricity or heat, imposed by provisions of Art. 9a of the Energy Law Act
- does not obey the duty to keep reserves of fuel, introduced on the basis of Art. 10,
- does not apply the limitations in supply of fuels and energy, introduced on the basis of Art. 11,
- refuses to enter the electricity, gas or heat transmission or distribution contract for unjustified reasons,
- applies prices and tariffs not approved by the President of the ERA
- applies prices and tariffs higher than approved,
- refuses to reveal information,
- runs accounts contrary to the principles set up in the Energy Law Act
- employs personnel without qualifications required by the Energy Law Act,
- does not maintain the objects, equipment and installations in the proper technical shape,
- introduces into domestic market equipment not conforming to the requirements set up in the Energy Law Act,
- does not comply with the obligations set up in the license,
- implements actions in respect of heat supply, contrary to heat supply plan,
- discontinues or limits the supply of gaseous fuels, electricity or heat to customers, for unjustified reasons
- delays notification of interested entities on the refusal to conclude contracts of transmission or connection for unjustified reasons.

The amount of the fine is determined by the President of the ERA in an administrative decision.

The President of the ERA may also issue legal opinion and explain the way the proceeding is carried on. These opinions and explanations are not issued in a form of an administrative decision.

The President of the ERA has also right to determine terms of commencing or continuing supplies or rendering the transmission services until the case is finally resolved, upon request of one of the parties.

ROMANIA GAS:

ANRGN's jurisdiction, regarding decision making process, is extended over the following main domains: issuing technical and commercial secondary legislation, granting the authorizations and licenses, granting the eligible consumer statute, applying the sanctions. During the decision making process ANRGN takes into consideration and analyze all the aspects involved.

ROMANIA ELECTRICITY:

The main topics for the decisions are: tariffs, licenses and authorisations in the electricity sector, pre-contractual disputes, framework-contracts, commercial and technical regulations.

ANRE regulates the activity of sector companies through issuing the secondary legislation but not the contractual disputes and the commercial relations on the competitive market (tariffs, contracts).

RUSSIA:

- creates and maintains registers of subjects of natural monopolies in the fuel and energy complex and at transport, when these subjects are under state regulation and control;
- defines regulatory methods for specific subjects of natural monopolies;
- sets tariffs for electricity and heat (capacity) and standards for subscription fee and other services rendered on the federal (all-Russian) electricity (capacity) wholesale market;
- sets cap prices for transmission of electricity (capacity) through networks of organizations that are included in the register of subjects of natural monopolies and that are located in territories of relevant entities of the Russian Federation, and exercises control over determination of the amount of payment for said services;
- considers disputes arising between regional energy commissions, consumers supplied from the federal (all-Russian) electricity (capacity) wholesale market, and energy supply companies at their requests and makes decisions on the matters under consideration setting compulsory cap tariffs for electricity and heat for end-users;
- within its competence makes decisions and gives instructions that are compulsory for federal executive agencies, executive agencies of entities of the Russian Federation, and for organizations irrespective of the forms of ownership and subordination;
- elaborates proposals on improvement of current and on adoption of new federal laws and other normative acts in the field of state regulation of tariffs for electricity and heat, and those related to regulation of natural monopolies in the fuel and energy complex and at transport;
- controls compliance with requirements of federal laws "On Natural Monopolies" and "On state regulation of tariffs for electricity and heat in the Russian Federation".

SLOVAKIA:

The Office shall be

- a) making decisions on granting, amendments to or withdrawal of permits to perform Regulated Activities,
- b) keeping and publishing lists of holders of licences for the performance of Regulated Activities,
- c) regulating prices
- d) making decisions on business conditions upon the performance of Regulated Activities,
- e) granting preceding approvals for the construction, reconstruction or cancellation of structures and facilities serving the performance of Regulated Activities
- f) making decisions on the liability to enable access to network
- g) exercising Surveillance of the compliance
- h) imposing measures to remedy faults and shortcomings identified upon exercising Surveillance
- i) imposing sanctions for violations of liabilities
- j) issuing, based on the law, generally binding legal regulations to be promulgated by being published in the Collection of Laws of the Slovak Republic
participating in the drafting of laws and regulations by the Government of the Slovak Republic that concern regulation in Network Industries.

TURKEY:

- a) To issue regulations;
- b) To determine the reductions in limits relating to the definition of eligible consumer and to issue new limits;
- c) To establish and implement the Authority's personnel policy including the appointment of personnel;
- d) To grant approvals related to licenses and other approvals indicated in Law no 4628
- e) To examine and approve Turkish Electricity Trading and Contracting Co. Inc.'s wholesale price tariffs, the transmission tariffs, distribution tariffs and retail tariffs to be drafted in accordance with the terms and conditions set forth in the respective licenses;
- f) To approve the Authority's budget, annual business plan, income and expenditure final accounts, and annual report and other reports on market development prepared by chairmanship and if deemed necessary, decide on the transfer between the items in the budget.
- g) With respect to existing agreements; to propose modifications aimed at facilitation of transition to a competitive market in accordance with provisions of this Law for consideration by the parties and to act as an intermediary for settlement of any dispute prior to initiation of any formal dispute settlement process relating to such agreements provided that such mediation does not breach provisions of existing agreements governing the settlements of disputes.

UKRAINE:

According to the Law of Ukraine on Natural Monopolies and Law of Ukraine on Power Sector NERC is a regulatory body in the following areas: transmission and distribution of electricity, transmission of gas, oil and oil products through pipelines, transportation of other substances through pipelines.

The National Electricity Regulatory Commission of Ukraine regulates activities of subjects of natural monopolies operating in the power sector, and that of economic entities in adjacent markets; NERC also performs other functions in accordance with the legislation (Law of Ukraine on Power Sector).

Main tasks of the Commission are:

- participation in elaboration and implementation of the integrated state policy related to development and functioning of the wholesale electricity market, gas, oil and oil product markets;
- state regulation of activities of subjects of natural monopolies in power sector and oil and gas complex;
- promotion of competition in the field of power generation and gas production, extraction of gas and oil, storage and sale of gas, oil and oil products;
- implementation of pricing and tariff policies in the oil and gas complex;

- providing for efficient functioning of commodity markets on the basis of balanced interests of the society, subjects of natural monopolies and consumers of their goods and services;
- protection of rights of consumers of electricity, heat, gas, oil and oil products;
- elaboration and approval of rules for utilization of electricity and gas;
- coordination of activities of state bodies in the field of energy market regulation;
- issuance of licenses for electricity generation, transmission and supply;
- control over compliance with license terms.

The functions of the Commission include:

- 1) Regulation of clearing-settlement issues in the wholesale electricity market, gas, oil and oil product markets;
- 2) Sets restrictions for combination of types of activities by economic entities;
- 3) Develops and approves normative acts on issues within its competence;
- 4) issues licenses for electricity generation, transmission and supply;
- 5) approves instructions related to conditions and rules for carrying out licensed activities and monitors compliance with the rules;
- 6) identifies thresholds for carrying out activities without licenses;
- 7) performs on-going monitoring over compliance with license terms;
- 8) reviews cases on violation of license terms, and cases on administrative violations; makes decisions on cases within its competence;
- 9) transfers materials to the Anti-monopoly Committee of Ukraine when cases of violation of anti-monopoly legislation are identified;
- 10) verifies compliance of liquidation, business combination, acquisition or alienation of more than 25 % of shares of economic entities with terms and rules applicable to licensed activities;
- 11) provides necessary information to licensees;
- 12) takes part in setting rules for functioning of the wholesale electricity market, gas, oil and oil product markets, and in monitoring their compliance;
- 13) takes measures to ensure non-discriminatory access to transmission networks of electricity, gas, oil and oil product markets of all types of ownership;
- 14) sets prices for information products and tariffs for information services;
- 15) within its competence protects interests of consumers in connection with prices for electricity, gas, oil and oil products, as well as security of supply and quality of services;
- 16) within its competence develops state pricing policy for electricity, gas, oil and oil products, tariffs for their transmission, storage, supply and distribution;
- 17) promotes efficient production and consumption of electricity, gas, oil and oil products;
- 18) proposes draft laws, amendments, etc;
- 19) provides for scientific-technical and analytical studies on topics that are within its competence;
- 20) informs the general public on its operations;
- 21) takes care of training for the Commission staff;
- 22) submits to the President of Ukraine and publishes annual reports on its operations;
- 23) cooperates with consumer associations in the area of protecting rights of consumers of electricity, gas, oil and oil products;

- 24) creates for subjects of the wholesale electricity gas, oil and oil product markets, prerequisites for fair markets and rules by means of open discussion of issues that are within NERC's competence in the presence of suppliers and consumers, members of the public and representatives of mass media;
- 25) performs other functions.

Additional information is available at www.erranet.org.